

REMARKS

Reconsideration and withdrawal of the Examiner's rejection of currently pending Claims 1-4 is earnestly solicited in light of the above amendments.

As recited in Claim 1, as amended, the subject invention is directed to a drum having a convex upper chime and a side wall with a generally horizontal drum flange. A lid for the drum has a mating channel with a concave base surface having a radius matching the radius of the convex upper chime so that the chime and base surface can directly engage each other in a sealing relationship. The lid also has a cover flange. A lockband is provided to engage the drum flange and the cover flange such that as the lockband is tightened, the concave base surface of the lid and the convex upper chime are brought into a direct sealing relationship.

Claim 1 stands rejected as anticipated by U.S. Patent 5,947,320 to Bordner et al. ("Bordner et al"). Applicant has discussed the disclosure of Bordner et al. in an earlier amendment submitted October 4, 2002. Bordner et al. does not disclose a generally horizontal drum flange as recited in Claim 1, as amended, for engaging a lockband. Instead, in Bordner et al. lockband 42 engages the upper chime 54 of the drum and the lid.

Applicant further respectfully traverses the Examiner's position that Bordner et al. discloses the limitation recited in Claim 1 (before the current amendment) that the concave base surface (of the lid) fully engage the convex chime. The Examiner has taken the position that this

limitation is met in Bordner et al. because the lid in Bordner et al. may comprise both elements 16 and 78. It is unclear to Applicant whether the Examiner is asserting (1) that a discrete element, such as the lid in Bordner et al. may be defined so as to include a completely separate element, such as the gasket in Bordner et al. (a structural analysis); or (2) that the gasket, even though a separate element from the lid, nevertheless acts with the lid and the chime so as to provide "full" engagement between the lid and the chime (a functional analysis).

To the extent the Examiner is asserting proposition (1) above, Applicant respectfully disagrees. If a discrete element in a claim could be defined structurally to comprise additional separate discrete elements, then the notice function of the claim would be comprised. Because the lid and gasket in Bordner et al. are separate and discrete structural elements, it is not correct from a structural standpoint to assert that the one may comprise the other.

To the extent that the Examiner is asserting proposition (2), Applicant has amended Claim 1 to recite that the engagement between the lid and the chime is "direct." The gasket in Bordner et al. does not provide for direct engagement between the lid and the chime in the cavity in which the gasket is placed.

Claim 1 also stands rejected as anticipated by Godinho. Godinho discloses a container wall 1 with a chime 2, and a lid 3 having an annular u-shaped outer periphery 4 forming a groove 5 that fits around the chime. A clamping strip is placed around the periphery

and tightened to seal the container. Godinho does not disclose the wall having a flange so that the clasp may engage both the wall and the lid, as recited in amended Claim 1.

Claim 1 as amended is neither taught nor made obvious by Godinho, Bordner et al. or the other prior art of record, and Applicant respectfully requests that the present rejection be withdrawn.

The Examiner has asserted that Claim 2 is obvious over Godinho in view of Hammes. This rejection is also respectfully traversed. Neither Godinho nor Hammes disclose or suggest a structure in which there is direct engagement between the lid and the chime, as recited in Claim 2, as amended. For this reason, Hammes' disclosure of a gasket between the cover flange and the drum flange does not render the claim unpatentable.


Claim 3 is rejected as obvious over either Bordner et al. or Godinho in view of Cramer, et al. As discussed above, however, neither Bordner et al. nor Godinho disclose or suggest Claim 1 as amended, on which Claim 3 depends. Thus, this rejection should be withdrawn.

Claim 4 is rejected as obvious over either Bordner et al. or Godinho. Claim 4 is patentable for the same reasons that apply to Claim 1, as amended, as discussed above.

It is believed that the application is now in condition for allowance, and early notification to that effect is earnestly solicited.

The USPTO is hereby authorized to charge any deficiency or credit any overpayment with regard to any fees associated with the filing of these documents to deposit account no.: 22-0585.

Respectfully submitted,


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